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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,167	02/27/2004	Linda V. Benhase	TUC920030169US1 (17184)	9898
46263 7590 07/16/2007 SCULLY, SCOTT, MURPHY, & PRESSER 400 GARDEN CITY PL GARDEN CITY, NY 11530			EXAMINER HO, ANDY	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,167	Applicant(s) BENHASE ET AL.	
	Examiner Andy Ho	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the application filed 2/27/2004.
2. Claims 1-13 have been examined and are pending in the application.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-13 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 10/869,223. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present application are anticipated by the claims of application 10/869,223.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack antecedent basis:

(i) the method (line 3 claim 6). Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasha U.S Patent No. 6,993,771 in view of Lortz U.S Patent No. 6,438,618.

As to claim 1, Hasha teaches a method for controlling the communication of different event messages to at least one client host (Fig. 63), comprising:

associating each of the different event messages with at least one event category in a hierarchy of event categories (...each event has an associated event type. A listener registers to listen for events of a certain event type. In one embodiment, the event types may be hierarchically organized..., lines 17-21 column 30);

associating a particular one of the event categories with the at least one client host (...A listener registers to listen for events of a certain event type,..., lines 19-20 column 30); and

communicating a particular one of different event messages to the at least one client host when the particular one of different event messages is a descendant of the particular one of event categories (...one event type may be a timer event. The timer events may be further classified into catastrophic timer events, warning tuner events, and informational timer events, which are sub-events. An informational timer event may

further be classified into start-up timer events and shut-down timer events. A listener may register to listen for events at any level in the event hierarchy. For example, a listener may register to listen for informational timer events. That listener would receive an event notification as for start-up timer events and a shut-down timer events..., lines 21-32 column 30).

Hasha further teaches the system having client host and server host (Fig. 63). However, Hasha does not explicitly teach the method is for use at a server host.

Lortz teaches (lines 37-61 column 6) an event notification system having a client and a server wherein events are processed at the server before forwarding to the client. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to have modified Hasha reference to include the teachings of Lortz reference because by having a server processes the events before forwarding to a client, the system could filter the events and forward only types of events that the client is interested in, as disclosed by Lortz (lines 37-61 column 6).

As to claim 2, Hasha as modified further teaches the associating the particular one of the event categories with the at least one client host is responsive to a registration request received from the at least one client host (...A listener registers to listen for events of a certain event type..., lines 19-20 column 30).

As to claim 3, Hasha as modified further teaches associating the particular one of the event categories with an application at the at least one client host (an application program as a client, lines 40-42 column 2).

As to claim 4, Hasha as modified does not explicitly teach the event messages are provided by an application programming interface. However, Hasha teaches the events could be generated by any software entity (lines 35-55 column 7). Therefore one of ordinary skill in the art would conclude that in Hasha system, the event messages could be provided by an application programming interface, since an application programming interface is a well-known software entity in a computer system.

As to claim 5, Hasha as modified further teaches the hierarchy of event categories includes at least one level (level in the event hierarchy, lines 26-28 column 30).

As to claims 6-10, they are computer program product claims of claims 1-5, respectively. Therefore, they are rejected for the same reasons as claims 1-5 above.

As to claim 11, it is a method claim of claims 1-2. Therefore, it is rejected for the same reasons as claims 1-2 above.

As to claims 12-13, they are method claims of claims 3 and 5, respectively. Therefore, they are rejected for the same reasons as claims 3 and 5 above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy Ho whose telephone number is (571) 272-3762. A

voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIM) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Any response to this action should be mailed to:

Commissioner for Patents

P.O Box 1450

Alexandria, VA 22313-1450

Or fax to:

- AFTER-FINAL faxes must be signed and sent to (571) 273 - 8300.
- OFFICAL faxes must be signed and sent to (571) 273 - 8300.
- NON OFFICAL faxes should not be signed, please send to (571) 273 – 3762

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A.H
July 3, 2007

A handwritten signature in black ink, appearing to read "Andy H.", with a long horizontal flourish extending to the right.